

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 532 – SB 1219**

March 2, 2017

**SUMMARY OF BILL:** Extends the open container law to passengers in a motor vehicle. Excludes passengers in vehicles for hire, or in the living quarters of a motor home, truck camper, house trailer, or passengers in a vehicle being operated by a chauffeur.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact – Pursuant to 23 CFR Part 1270, \$19,210,000 of the federal funds apportioned to the state under the National Highway Performance Program and the Surface Transportation Block Grant Program is currently used for alcohol-impaired driving programs (\$11,718,100) and highway safety improvement programs (\$7,491,900). The open container law change will result in a shift of \$11,718,100 in federal funding from the Highway Safety Office to the Department of Transportation (TDOT). TDOT will be authorized to use the entire \$19,210,000 on highway construction projects. To the extent the state elects to continue existing programs that are funded by such funds, an additional state appropriation will be required.**

Assumptions:

- Pursuant to the Code of Federal Regulations, Title 23, Chapter II, Subchapter D, Part 1270, if a state has not enacted or is not enforcing a law that complies with the federal open container requirements, 2.5 percent of the federal funds apportioned to the state under the National Highway Performance Program (NHPP) and the Surface Transportation Block Grant Program (STBGP) shall be reserved to be used for alcohol-impaired driving programs and highway safety improvement programs.
- The State of Tennessee's current open container law does not comply with the federal requirements. As a result, for the last 14 years, a portion of the state's federal NHPP and STBGP funding has been reserved and required to be used for the abovementioned purposes.
- Out of the total amount of reserved funds of approximately \$19,210,000, \$7,491,900 is currently used by the Tennessee Department of Transportation (TDOT) on safety improvement programs; the remaining \$11,718,100 is used by the Tennessee Highway Safety Office (THSO) for alcohol impaired driving programs, including, but not limited to, funding for 54 DUI prosecution positions (approximately \$4,900,000), funding for state and local law enforcement agencies for alcohol countermeasure programs including overtime (approximately \$3,700,000), and funding for impaired driving media campaigns (approximately \$2,800,000).

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- The proposed bill intends to bring the state's open container law in compliance with the federal requirements. The National Highway Traffic Safety Administration has not yet commented on whether the proposed language will accomplish that intent; however, for the purposes of this fiscal analysis, it is assumed that this bill will place the state in compliance with all federal open container regulations.
- As a result, federal funding in the amount of 2.5 percent of the state's NHPP and STBGP apportionment will no longer be reserved and required to be used for alcohol-impaired driving programs and highway safety improvement programs.
- There will be a recurring shift of funding of \$11,718,100 from THSO to TDOT, and TDOT will utilize the entire \$19,210,000 for highway construction projects.
- To the extent the state elects to continue existing programs that are funded by reserved funds, an additional state appropriation will be required.
- A violation of the open container law is a Class C misdemeanor, punishable by fine only.
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- Extending the open container prohibition to include motor vehicle passengers could result in additional violations of the law, and additional fine revenue to the state and local government.
- However, to the extent that funding is reduced for state and local DUI enforcement as a result of this bill, the rate of DUI convictions could decrease. The District Attorneys General Conference reports that a study on the efficacy of specialized DUI prosecutors in 2007 indicated there was a 21 percent increase in DUI conviction rates when a specialized prosecutor handled a case as opposed to a non-specialized prosecutor.
- Therefore, the net impact on state and local revenue and expenditures associated with DUI enforcement cannot be determined with reasonable certainty.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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